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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/722,634	11/28/2000	Ramesh Mantha	2664.20	4602
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27160 7590 12/14/2006

PATENT ADMINISTRATOR  
KATTEN MUCHIN ROSENMAN LLP  
1025 THOMAS JEFFERSON STREET, N.W.  
EAST LOBBY: SUITE 700  
WASHINGTON, DC 20007-5201

EXAMINER
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DUONG, DUC T

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/722,634	MANTHA, RAMESH	
	<b>Examiner</b>	<b>Art Unit</b>	
	Duc T. Duong	2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 10-16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-5, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The indicated allowability of claims 1-5, 15, and 16 are withdrawn in view previously discovered reference(s) to Holtzman et al (US Patent 6,850,506 B1).

Rejections based on the previously cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-5, 15, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Holtzman et al (US Patent 6,850,506 B1).

Regarding to claim 1, Holtzman discloses a system for allocating a power budget between at least two different communication channels, one of which comprises a voice channel and the other one of which comprises a data channel, comprising at least two

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receiving stations (user #1 and user #2) configured to receive all of the at least two different communication channels (fig. 1-2 col. 7 lines 7-35) and a transmitting station (base station) for transmitting each of the channels to at least one of the receiving-stations using a portion of the power budget, the portions being allocated by said transmitting-station such that the power budget is substantially consumed (fig. 3 col. 8 lines 15-32), wherein said transmitting-station is configured such that the allocation of power to the voice channel for a subsequent time period (time 106) is based on the actual power consumed by the voice channel for a known time period (time 102 and time 104), and wherein the known time period comprises a current time period and the subsequent time period immediately follows the current time period (noted the known time period 102 and 104 included the current time period 106 and subsequent time period 106).

Regarding to claim 2, Holtzman discloses the transmitting station comprises is a base station and the receiving station comprise subscriber stations (col. 6 lines 43-51).

Regarding to claim 3, Holtzman discloses one of the subscriber stations is configured to receive the one channel, and another of the subscriber stations is configured to receive the other one of the channels (fig. 1-2 col. 7 lines 7-35).

Regarding to claim 4, Hotzman discloses one of the subscriber stations is configured to receive the at least two communication channels (fig. 1-2 col. 7 lines 7-35).

Regarding to claim 5, Holtzman discloses the transmitting station comprises a subscriber station and the receiving station comprises a base station (col. 6 lines 43-51;

noted the system is operational in both forward and reverse links, thus both the subscriber station and base station are transmitting and receiving stations).

Regarding to claim 15, Holtzman discloses the transmitting station is configured such that a remaining portion of the power budget is allocated to a data channel for a subsequent time period based on the actual amount of power that was not allocated to the voice channel (col. 8 lines 20-27).

Regarding to claim 16, Holtzman discloses the amount of power (FCH power) that was actually consumed by one of the at least one communication channels during a known time period (previous frame) is allocated by said transmitting station to that communication channel for a future time period (frame k) and the remainder of said the power budget is allocated by said transmitting station to another of the communication channels (fig. 8 col. 15 lines 30-35 and col. 16 lines 23; the supplemental channel SCH read on another communication channel).

#### ***Allowable Subject Matter***

4. Claims 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 19 is allowed.

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD

DD

A handwritten signature in black ink, appearing to read 'Huy D. Vu', with a long horizontal line extending to the right.

**HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600**